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C O N F I D E N T I A L SECTION 01 OF 02 FREETOWN 000097

SIPDIS

STATE FOR AF/W (JHUNTER/ESPRUILL)

E.O. 12958: DECL: 03/16/2019

TAGS: PREL MASS SL

SUBJECT: DESPERATELY SEEKING THE SOFA: INCREMENTAL PROGRESS MADE

REF: FREETOWN 78

Classified By: Ambassador June Carter Perry for reasons 1.4 (b/d)

¶1. (C) Summary: Ministry of Foreign Affairs Americas Desk Rosaline Turay met with DCM and Poloff on March 11 to discuss the pending Status of Forces Agreement (SOFA). While the need for a SOFA has been discussed by Ambassador and others many times with Government of Sierra Leone (GoSL) officials, including recently with President Koroma (reftel), this meeting was the first in which substantive feedback was offered. Following a discussion on each provision, outlined in paras. 2 and 3, Turay provided comments from the Ministry of Defense, Sierra Leone Police, and the Ministry of Internal Affairs and Local Government. She also expects comments from the Ministry of Finance. The GoSL's need for money will likely be the biggest source of tension as negotiations progress, as some ministries will be loathe to lose an opportunity to levy taxes, fines, and other charges on USG personnel and activities. End Summary.

¶2. (U) During the discussion, some provisions were agreed-upon for immediate revision. Post suggests the following edits to these provisions, and requests guidance and/or concurrence from Department of Defense:

-- (U)nited States personnel may enter and exit Sierra Leone with identification and with collective movement or valid travel orders. United States Government contractors must have a valid passport and Sierra Leonean visa to enter;

-- (t)hat United States personnel be authorized to wear uniforms while performing official duties and to carry arms while on duty if authorized to do so by their orders and with the prior notice and approval of the Republic of Sierra Leone Armed Forces, Chief of Defense Staff;

-- Acquisition of articles and services in Sierra Leone by or on behalf of the United States Department of Defense in connection with activities under this agreement shall not be subject to any taxes or similar charges in Sierra Leone. Sierra Leonean contractors engaged by the United States Department of Defense, however, must pay all applicable taxes or similar charges in accordance with Sierra Leonean law.

¶3. Though agreement was reached in principle on three provisions, more remain for further discussion. The following is a list of those provisions identified as either unclear, or problematic from the standpoint of the Sierra Leonean government:

-- (T)he Embassy proposes that United States personnel be accorded the privileges, exemptions, and immunities equivalent to those accorded to the administrative and technical staff of a diplomatic mission under the Vienna Convention on Diplomatic Relations of April 18, 1961 (Note: GoSL would like to discuss this provision further. End note).

-- (T)he Government of Sierra Leone recognizes the particular importance of disciplinary control by United States Armed Forces authorities over United States personnel and, therefore, authorizes the Government of the United States to exercise criminal jurisdiction over United States Military personnel while in Sierra Leone (Note: GoSL indicated that further clarification is required. End note).

-- (U)nited States personnel may import into, export out of, and use in Sierra Leone any personal property, equipment, supplies, materiel, technology, training, or services in connection with activities under this agreement. Such importation, exportation, and use shall be exempt from any inspection, license, other restrictions, customs duties, taxes, or any other charges assessed within Sierra Leone (Note: GoSL has agreed to exempt from inspection any containers marked "Military Cargo." End note).

-- (t)hat such vehicles (whether self-propelled or towed) shall not be subject to the payment of overland transit tolls.

-- (V)essels and aircraft owned or operated by or, at the time, exclusively for the United States Department of Defense shall not be subject to the payment of landing, parking, or port fees, pilotage charges, lighterage, and harbor dues at facilities owned and operated by the Government of Sierra Leone.

-- (T)he United States Department of Defense shall pay reasonable charges for services requested and received at rates no less favorable than those paid by the Armed Forces of Sierra Leone.

FREETOWN 00000097 002 OF 002

-- (T)he Embassy further proposes that United States contractors shall not be liable to pay any tax or similar charge assessed within Sierra Leone in connection with activities under this agreement and that such contractors may import into, export out of, and use in Sierra Leone any personal property, equipment, supplies, materiel, technology, training, or services in fulfillment of contracts with the United States Department of Defense in connection with activities under this agreement.

-- (U)se of the radio spectrum shall be free of cost to the United States Government.

-- (C)laims by third parties for damages or loss caused by United States personnel shall be resolved by the United States Government in accordance with United States laws and regulations.

¶4. (C) Comment: Turay is not technically authorized to speak on behalf of her government on this issue, but was given permission by the Deputy Foreign Minister to meet with emboffs to begin the substantive discussions. (Note: Foreign Minister Bangura and Dr. Turay advised Ambassador and Poloff March 16 that the proposed agreement will be reviewed March 18th by the Legal Division of MFA. End note.) She requested that post provide a new note verbale with revised SOFA language, so that she can then re-engage with the relevant GoSL ministries and schedule a larger, high-level bilateral meeting. Though revising some provisions was easily and quickly agreed to, other provisions will probably require further negotiation and explanation. Though Turay was easily convinced that provisions involving USG exemption from various types of monetary charges should remain in the SOFA, other ministries will probably have a harder time seeing beyond their own self-interest. As the negotiations continue, the USG will be best-served by continuing with the theme that the SOFA is a symbol of mutual understanding, with mutual benefits, and that gouging the USG for short-term benefit is counter to the spirit of this kind of agreement. The ministries' commitment to their own purses will likely be outweighed, however, by the President's interest in having

the SOFA signed as quickly as possible (Note: The President's desire for a SOFA is linked to his interest in an official visit to the U.S. this year and to give the RSLAF the tools necessary to ready them for peacekeeping operations. End note). Though quibbling will continue, and we may need to consider paying some token charges, the negotiations should result in a signed agreement in the near future. End Comment.

PERRY